

Housing and Property Chamber
First-tier Tribunal for Scotland



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber) under Section 16 of the Housing (Scotland)
Act 2014**

Chamber Ref: FTS/HPC/CV/18/2856

**Re: Property at 20 Wester Suttieslea Gardens, Newtongrange, Midlothian,
EH22 4FE (“the Property”)**

Parties:

**Lowther Homes Limited, 25 Cochrane Street, Glasgow, G1 1HL (“the
Applicant”)**

**Miss Morgan Capperauld, Mrs Margaret Capperauld, 20 Wester Suttieslea
Gardens, Newtongrange, Midlothian, EH22 4FE (“the Respondent”)**

Tribunal Members:

Colin Dunipace (Legal Member)

Decision in absence of the Respondents

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that an Order should be made in favour of the
Applicants in the sum of Four Thousand, Six Hundred and Sixty Pounds
(£4660) Sterling.**

Background

This matter concerns an Application for payment of unpaid rent in the sum of £4660 for unpaid rent in respect of a Short Assured Tenancy between the parties, which was lodged on behalf of the Applicant on 19 October 2018. In support of the Application was also lodged a copy of the tenancy agreement; copy form AT6; copy of the notice to the local authority under section 19A (1) of the 1988 Act; copy rent account; and Lease to Lowther. The matter called before me as a continued Case Management Discussion in George House, Edinburgh on 8 April 2019. The Applicant was represented at this Discussion by Ms Rashid of Messrs TC Young Solicitors. The Respondents were neither present nor represented. I was satisfied that

intimation of the Discussion had been sent by the Tribunal to the Respondents on 18 March 2019, and accordingly I was satisfied that Rule 24(1) of the First-tier Tribunal for Scotland Housing and Property Chamber (Rules of Procedure) Amendment Regulations 2017 had been complied with thereafter determining that the Discussion might proceed in their absence in terms of Rule 29 of the aforementioned Regulations.

Case Management Discussion

By way of further background, this matter called before me initially for a Case Management Discussion in George House, Edinburgh on 7 January 2019. At that time the Applicant was represented by Mr McKendrick of Messrs TC Young. The Respondents were also not present nor represented at this Discussion. At that time I noted that the Respondents had recently been in touch with the Applicant to advise that they were now in receipt of Universal Credit and that the current rental payments were being met by this benefit, and further that the parties had reached an agreement whereby the outstanding arrears of rent were to be cleared at the rate of £200 per month. At that time the aforementioned arrears were in the sum of £4461.08. Having regard to the agreement which had been reached between the parties, I agreed with the suggestion made by the Applicant's representative to continue the Case Management Discussion for a period of three months to monitor the payments to rent on an ongoing basis and also towards repayment of the outstanding arrears. At that time the Case Management Discussion was continued until 8 April 2019.

The matter accordingly called again before me on 8 April 2019. As indicated above at this Discussion the Applicant was represented by Ms Rashid, but neither Respondent was present nor represented. On behalf of the Applicant Ms Rashid indicated that the previous arrangements had not worked well. Ms Rashid indicated that whilst there had been some payments received in relation to Universal Credit, that these had not covered the rent to date, and that the arrears had continued to increase since the previous Case Management Discussion, with the Respondents not making payments to the Applicant in relation to outstanding arrears, which now stood at £4660.

Ms Rachid provided an up to date rent statement and indicated that such payments as had been received in relation to Universal Credit had not covered the rent due each month, and that there had been no attempt made by the Respondents to reduce the outstanding arrears. Whilst there had been some email communication with the Respondent Morgan Capperauld, that this had ceased in February 2019. There had been no communication from the Respondent Margaret Capperauld, and indeed Ms Rachid indicated her understanding that this Respondent may have let the property.

Having heard from the Applicant's solicitor I was invited to make the Order as sought. In the absence of the Respondents, or any representations from them I determined that there was no requirement for a full Hearing as the factual position did not appear to be in dispute.

Findings in Fact

1. The parties entered into a Short Assured Tenancy on 26 May 2017. The original Tenancy was due to expire on 28 November 2017. In terms of this rental agreement the amount of rent due was £685 per calendar month. On 1 May 2018 the amount of rent was increased to £715 per calendar month.
2. Notice of intention to raise proceedings was served on the Respondents in terms of section 19 of the Housing (Scotland) Act 1988 on 7 September 2018.
3. That the Respondents did not maintain payments of rent due in respect of this tenancy agreement and that the arrears now due amount to £4660.
4. That the Respondents agreed to make payment of the rental sums due and to reduce the arrears of rent in the sum of £200 per calendar month on 7 January 2019. The Respondents have not adhered to this agreement and that the sum of £4660 remains outstanding. There has been no contact from the Respondents in relation to the arrears of rent since February 2019.

Statement of Reasons

The Applicant's representative produced a rent arrears statement to the Tribunal on 8 April 2019 showing the extent of the outstanding arrears. These arrears are substantially in excess of three months rental in relation to the property.

Given that the factual position did not appear to be disputed I determined that the Order sought should be granted.

Decision

In these circumstances the Tribunal will grant the Order as sought in this Application.

Right of Appeal

In terms of Section 46 of the Tribunal (Scotland) Act 2014, a party aggrieved by the decision of the Tribunal may appeal to the Upper Tribunal for Scotland on a point of law only. Before an appeal can be made to the Upper Tribunal, the party must first seek permission to appeal from the First-tier Tribunal. That party must seek permission to appeal within 30 days of the date the decision was sent to them.

Colin Dunipace

Legal Member/Chair

8/4/19

Date